



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

LCC:ddj
Docket No: 3628-99
4 April 2000

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 4 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS memorandum 1920 SER 834D/450 of 5 March 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY

BUREAU OF NAVAL PERSONNEL
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1920
Ser 834D/450
5 Mar 00

MEMORANDUM FOR THE ASSISTANT FOR BCNR MATTERS (PERS-00XCB)

Subj: [REDACTED]

Ref: (a) Your memorandum of 19 Jan 00
(b) SECNAVINST 1900.7G

Encl: (1) CNP ltr 1920 Pers-834D/Pers-822 Ser 0689 of 30 Jun 98

1. In accordance with reference (a), the following information is provided concerning Ms. [REDACTED] case.

2. Enclosure (1) details the circumstances surrounding her separation and shows all the information that she has provided was evaluated by the Separation Authority before she was separated. Her waiver of the Board of Inquiry was not the issue that precluded awarding her separation pay, rather, it was her initial request for resignation that showed she voluntarily requested separation. Most important, paragraph 2.f. of enclosure (1) states that even though she may be eligible for separation pay due to her prior enlisted service, the Secretary of the Navy may determine that an otherwise eligible service member does not warrant separation pay. The recommendation in paragraph 3 of that letter included language to show that she would specifically not be entitled to separation pay.

3. Recommend maintaining her Separation Program Designator as KRB (homosexual admission, voluntary separation) to accurately depict the events of this case.

P. S. Posey
P. S. POSEY

Lieutenant Commander, U.S. Navy
Head, Officer Performance Branch



DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
WASHINGTON, D.C. 20370-5000

IN REPLY REFER TO
1920
Pers-834D/Pers-822
Ser 0689
30 Jun 98

From: Chief of Naval Personnel
To: Secretary of the Navy

Ref: (a) ENS Fulton's ltr of 14 Nov 97 w/ends
(b) CHNAVPERS ltr 1920 Pers-834/Pers-822 Ser 0608
of 17 Apr 98
(c) NAVADMIN 049/96

Encl: (1) ENS Fulton's ltr of 27 May 98 w/end
(2) Honorable discharge certificate

1. Synopsis. [REDACTED] is a Regular line officer in training for Surface Warfare qualification with two years, one month commissioned service and ten years, five months total service. ENS Fulton initially tendered her voluntary resignation, requested that it be rescinded, and subsequently tendered an unqualified resignation in lieu of further administrative show cause proceedings.

2. Discussion

a. By reference (a) [REDACTED] tendered her resignation request and requested immediate removal from her ship, USS PLATTE (AO 186). After months of internal struggle, ENS Fulton reached the "incontrovertible conclusion that she was a homosexual." Having accepted this, she felt it was her obligation to immediately inform her chain of command so that appropriate actions could be taken to separate her from military service.

b. After conducting an informal fact finding inquiry, Commanding Officer, USS PLATTE (AO 186), forwarded [REDACTED] resignation recommending approval. She determined her statement was truthful and that she was unsuitable for further Naval Service. She added, to her knowledge, there was no misconduct involved, her performance was not disruptive, nor had she posed any disciplinary problems. She recommended [REDACTED] be separated with an Honorable discharge.

c. In response to her commanding officer's endorsement, [REDACTED] requested to withdraw her resignation but not her statement of sexual orientation. Her intention was not to submit a voluntary resignation, but to be administratively separated. Commanding Officer, USS PLATTE (AO 186) forwarded [REDACTED] resignation recommending it be classified as a voluntary separation. Commander, Combat Logistics Group TWO forwarded ENS [REDACTED] resignation recommending it be approved.

Subj: [REDACTED]

d. As this case dealt with homosexual admission, reference (b) initiated administrative show cause proceedings to afford [REDACTED] the opportunity to rebut the presumption that she engaged in, attempted to engage in, has the propensity to engage in, or intends to engage in homosexual acts. By enclosure (1), [REDACTED] tendered an unqualified resignation in lieu of further administrative show cause proceedings.

e. [REDACTED] does not desire to contest her separation, only the manner in which she is being separated. Her statement of homosexuality was not coerced and she had no obligation to reveal her "sexual orientation." One conclusion that can be drawn by her request to be administratively processed vice having her voluntarily resignation accepted is, in her case, involuntary separation for homosexual admission may result in one-half separation pay.

f. [REDACTED] is eligible for separation pay only because of her total service time (ten years, five months). However, as it is clearly obvious that she initiated her separation, allowing her to receive compensation would be inappropriate. Per reference (c), in extraordinary cases, the Secretary of the Navy may determine that an otherwise eligible service member does not warrant separation pay. Understanding that this authority is used sparingly, it is recommended that [REDACTED] be denied involuntary separation pay.

3. Recommendation. Accept [REDACTED] resignation and separate her from the Naval Service with an Honorable discharge. As [REDACTED] is not indebted to the U.S. Government, recoupment is not an issue. Your approval of this letter and signature of enclosure (2) will affect the recommended action. The separation code will be KRB (homosexual admission), which is a voluntary separation, and will not entitle ENS [REDACTED] to separation pay.

Approved/Disapproved

AUG 6 1998



BERNARD ROSTKER
Assistant Secretary of the Navy
(Manpower and Reserve Affairs)



W. R. SCHMIDT
Rear Admiral, U.S. Navy
Deputy Chief of Naval Personnel



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
WASHINGTON, DC 20350-2000

IN REPLY REFER TO

7220

Ser N130C3/OU0024

19 JAN 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION
OF NAVAL RECORDS

Via: Assistant for BCNR Matters, Pers-00XCB

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO
[REDACTED]

Ref: (a) SECNAVINST 1900.7G

Encl: (1) BCNR Case File #03628-99 w/Microfiche Service
Record

1. Enclosure (1) indicates a request to change the petitioner's separation program designator code (SPD) to "HRB" (homosexual admission) and be paid separation pay (half) upon her discharge on 30 SEP 98 due to homosexual tendencies.

2. N130C does not provide advisory opinions concerning discrepancies and corrections in a member's DD-214 (SPD code). We recommend that the petitioner's case be referred to Pers-814 for the appropriate SPD code and resolution of her case.

A handwritten signature in cursive script, appearing to read "S. J. Miller", is located below the recommendation text.

S. J. Miller
Assistant Head, Pay and
Allowances Section (N130C)